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New Jersey Statutes Annotated

Title 45, Chapter 14E

State Board of Respiratory Care Statutes

45:14E-1. Short title

This act shall be known and may be cited as the “Respiratory Care Practitioner Licensing Act.”

45:14E-2. Legislative findings and declaration

The Legislature finds and declares that the public interest requires the regulation of the practice of respiratory care and the establishment of clear licensure standards for respiratory care practitioners; and that the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified and legally authorized to practice respiratory care.

45:14E-3. Definitions

As used in this act:

- a. “Board” means the State Board of Respiratory Care established pursuant to section 4 of this act.¹
- b. “Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.
- c. “Respiratory care” means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardio-respiratory system. The care shall include the use of medical gases, air and oxygen-administering apparatus, environmental control systems, humidification and aerosols, drugs and medications, apparatus for cardio-respiratory support and control, postural drainage, chest percussion and vibration and breathing exercise, respiratory rehabilitation, assistance with cardio-pulmonary resuscitation, maintenance of natural and mechanical airways, and insertion and maintenance of artificial airways. The care shall also include testing techniques to assist in diagnosis, monitoring, treatment and research, including but not necessarily limited to, the measurement of cardio-respiratory volumes, pressure and flow, and the drawing and analyzing of samples of arterial, capillary and venous blood.

- d. “Respiratory care practitioner” means a person licensed by the board to practice respiratory care under the direction or supervision of a physician.

¹ Section 45:14E-4.

45:14E-4. State Board of Respiratory Care; members; terms

There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Respiratory Care. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c. 60 (C.45:1-2.1 et seq.) Of the remaining eight members six shall be licensed respiratory care practitioners who have been actively engaged in the practice of respiratory care in this State for at least five years immediately preceding their appointment, one shall be the administrator of a hospital licensed pursuant to P.L.1971, c. 136 (C.26:2H-1 et seq.) and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes. The six respiratory care practitioners initially appointed need not be licensed in this State.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the respiratory care practitioner members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board shall serve more than two successive terms in addition to any unexpired term to which he has been appointed.

45:14E-5. Compensation and reimbursement of board members

Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c. 285 (C.45:1-2.5).

45:14E-6. Elections and meetings of board

The board shall annually elect from among its members a chairman and a vice- chairman. The board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

45:14E-7. Powers and duties of board

The Board shall:

- a. Review the qualifications of applicants for licensure;
- b. Insure the proper conduct and standards of examinations;
- c. Issue and renew licenses to respiratory care practitioners pursuant to this act;
- d. Suspend, revoke or fail to renew the license of a respiratory care practitioner pursuant to the provisions of P.L.1978, c. 73 (C.45:1-14 et seq.);
- e. Maintain a record of every respiratory care practitioner licensed in this State, his place of business, his place of residence, and the date and number of his license;
- f. Promulgate rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), to carry out the provisions of this act, except that the initial rules and regulations shall be promulgated by the director; and
- g. Establish fees for applications for licensure, examinations, initial licensure, renewals, late renewals, temporary licenses and for duplication of lost licenses, pursuant to section 2 of P.L.1974, c. 46 (C.45:1-3.2).

45:14E-8. Executive director of board

The Executive Director of the board shall be appointed by the director and shall serve at the director’s pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

45:14E-9. License required; trainee’s; other licensees

- a. No person shall practice, nor present himself as able to practice, respiratory care unless he possesses a valid license as a respiratory care practitioner in accordance with the provisions of this act.
- b. This section shall not be construed to prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a trainee’s clinical service, provided the duties are performed under the supervision and direction of a physician or licensed respiratory care practitioner.

- c. Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and if the member does not present himself as a respiratory care practitioner.

45:14E-10. Qualifications of applicants for license

The board shall license as a respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a respiratory care practitioner. In making a determination, the board shall require evidence that the applicant has successfully completed a respiratory care training program which meets the board's approval and that he successfully completes an examination prescribed by the board. The fee prescribed by the board shall accompany the application.

45:14E-11. Duration of license; renewal

Licenses shall be issued for a period of two years, except in the case of a temporary license issued pursuant to section 14 or 15 of this act,¹ and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by the expiration date, the license shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by it for each year or part thereof during which the license was expired and an additional restoration fee. After a two-year period, a license may only be renewed by complying with the provisions of this act regarding initial licensure.

¹ Sections 45:14E-14 and 45:14E-15.

45:14E-12. Examinations

The written examination provided for in section 10 of this act¹ shall test the applicant's knowledge of basic and clinical sciences as they relate to respiratory care and respiratory care theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice respiratory care or act as a respiratory care practitioner. Examinations shall be held within the State at least twice per year at a time and place to be determined by the board. The board shall give adequate written notice of the exam to applicants for licensure and examination.

Additional examinations shall be in accordance with standards set by the board.

¹ Section 45:14E-10.

45:14E-13. Applicants licensed in another state, possession or District of Columbia

Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination a license to a respiratory care practitioner who holds a valid license issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of this act; provided, that, the applicant has not previously failed the board exam referred to in section 15 of this act,¹ in which case licensing shall be at the discretion of the board.

¹ Section 45:14E-15.

45:14E-14. Temporary license

- a. Upon submission of a written application on forms provided by it, the board shall issue a temporary license to a person who has applied for licensure pursuant to this act and who, in the judgment of the board, is eligible for examination. A temporary license shall be available to an applicant with his initial application for examination and he may practice only under the direct supervision of a licensed respiratory care practitioner. A temporary license shall expire automatically upon failure of the licensure exam by the applicant but may be renewed for an additional six-month period until the date of the next exam, at which time it shall automatically expire and be surrendered to the board.
- b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice respiratory care in this State to a person who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to respiratory care practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one year period. A temporary license shall be surrendered to the board upon its expiration.

45:14E-15. License issued to applicants who have passed examination offered by National Board of Respiratory Care; temporary license issued to present practitioners

The Board shall issue a license to perform respiratory care to an applicant, who, at the time of the effective date of this act, has passed the admin-

istered Entry Level or Advanced Practitioner examination offered by the National Board for Respiratory Care, or their equivalent. Other applicants who have not passed either of these examinations or their equivalent at the time of the effective date of the act, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to continue their practice as a respiratory care practitioner for a period of 18 months from the effective date of the act. Those applicants must pass the licensure examination administered by the Board during the 18-month period in order to be issued a license to practice respiratory care.

New Jersey Statutes Annotated

Title 45, Chapter 1

Uniform Enforcement Act

45:1-7 Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-14. Legislative findings and declarations;
liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated
by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by or through such boards: the New

Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.¹

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹ Section 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent

with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;
- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection.
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 at seq.) or any insurance fraud prevention law or act of another jurisdiction.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C. 13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C. 13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c. 418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c. 418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c. 419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c. 46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c. 73 (C. 47:1A-1 et seq.).

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General alleging an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S.A.. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

Any person violating any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$2,500.00 for the first offense and not more than \$5,000.00 for the second and each subsequent offense. For the purpose of construing this section, each transaction or statutory violation shall constitute a separate offense; provided, however, a second or subsequent offense shall not be deemed to exist unless an administrative or court order has been entered in a prior, separate and independent proceeding. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any

board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the Penalty Enforcement Act (N.J.S.A.. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

New Jersey Administrative Code

Title 13, Chapter 44F

State Board of Respiratory Care Regulations

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:44F-1.1 Purpose and scope

- (a) This chapter, as effective January 4, 1993, is promulgated by the Director of the Division of Consumer Affairs. The rules contained in this chapter implement the provisions of the Respiratory Care Practitioner Licensing Act, P.L. 1991, c.31, and regulate the practice of respiratory care within the State of New Jersey.
- (b) This chapter shall apply to all individuals who render respiratory care, as hereinafter defined, under the direction or supervision of a plenary licensed physician and to anyone within the jurisdiction of the Board of Respiratory Care.
- (c) This chapter shall not apply to persons and health care providers licensed by appropriate agencies of the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and the member does not present himself or herself as a respiratory care practitioner.

13:44F-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Board” means the State Board of Respiratory Care.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Respiratory care” means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardio-respiratory system, as further defined in N.J.S.A. 45:14E- 3(c).

“Trainee” means a student enrolled in a Board-approved respiratory care training program.

SUBCHAPTER 2. AGENCY ORGANIZATION AND ADMINISTRATION

13:44F-2.1 Description of Board

The State Board of Respiratory Care, created in the Division of Consumer Affairs of the Department of Law and Public Safety pursuant to P.L. 1991, c.31, shall consist of 11 members appointed by the Governor. Six board members shall be licensed respiratory care practitioners who have been actively engaged in the practice of respiratory care in this State for at least five years immediately preceding their appointment; one board member shall be an administrator of a hospital licensed pursuant to P.L. 1971, c.136; one board member shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes; two board members shall be public members; and one board member shall be a State executive department member appointed pursuant to P.L. 1971, c.60.

13:44F-2.2 Office location

The offices of the Board are located at 124 Halsey Street, Newark, New Jersey 07102.

13:44F-2.3 Meetings of the Board

The Board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

13:44F-2.4 Election of officers

The Board shall annually elect from among its members a chairman and a vice-chairman.

13:44F-2.5 Notification of change of address

A licensee of the State Board of Respiratory Care shall notify the Board in writing of any change of address from that which the Board maintains in its records and which the licensee's current license displays. The licensee shall forward the notice to the Board by certified mail, return receipt requested, no later than 30 days following the change of address.

13:44F-2.6 Change of name

- (a) Any licensee whose name has been legally changed shall forward to the Board by certified mail, return receipt requested, no later than 30 days following the change of name the following:

1. Legal evidence of such change;
2. A copy of the licensee's original license with satisfactory evidence that the licensee is the same person to whom the Board issued the license; and
3. The appropriate duplicate license fee as set forth in N.J.A.C. 13:44F- 8.1.

(b) Upon receipt of the items set forth in (a) above, the Board shall issue a new license to the licensee.

(c) Upon receipt of the new license as set forth in (b) above, the licensee shall remit the original license to the Board.

13:44F-2.7 Duplicate licenses

(a) Any licensee seeking a duplicate license shall forward to the Board the following:

1. A notarized statement that the license has been lost or destroyed; and
2. The appropriate duplicate license fee as set forth in N.J.A.C. 13:44F- 8.1.

(b) Upon receipt of the items outlined in (a) above, the Board shall forward a duplicate license to the licensee.

SUBCHAPTER 3. AUTHORIZED PRACTICE

13:44F-3.1 Scope of practice

(a) For the purposes of treating, managing, controlling and caring for patients with deficiencies and abnormalities of the cardio-respiratory system, a respiratory care practitioner may perform the following duties under the direction or supervision of a physician:

1. Use of medical gases, air and oxygen-administering apparatus;
2. Use of environmental control systems;
3. Use of humidification and aerosols;
4. Administration of drugs and medications;
5. Use of apparatus for cardio-respiratory support and control;
6. Postural drainage;

7. Chest percussion;
 8. Vibration;
 9. Breathing exercises;
 10. Respiratory rehabilitation;
 11. Performance of cardio-pulmonary resuscitation;
 12. Maintenance of natural and mechanical airways;
 13. Insertion and maintenance of artificial airways; and
 14. Testing techniques to assist in diagnosis, monitoring, treatment and research including, but not limited to:
 - i. Measurement of cardio-respiratory volumes, pressure and flow;
 - ii. Drawing and analyzing of samples of arterial, capillary and venous blood; and
 - iii. Establishment and maintenance of arterial lines, provided the licensee is appropriately trained in this procedure.
- (b) For purposes of this subchapter, “under the direction of a physician” means that respiratory care shall not be rendered unless one of the following conditions is met:
1. The licensee has obtained a written order or prescription from a plenary licensed physician or from such other health care practitioner authorized by law to prescribe or order respiratory care;
 2. The licensee has documented the physician’s clearance for treatment of the patient, which may include the physician’s countersigning of the respiratory care practitioner’s proposed plan of treatment; or
 3. The licensee has received a verbal order or prescription, in person or by telephone. In an outpatient setting, the verbal order or prescription shall be memorialized by the prescriber in writing within two weeks. In an inpatient setting, the verbal order or prescription shall be memorialized by the prescriber within 24 hours.
- (c) In no case will physician direction be construed to have been provided on the basis of a patient’s representation that he or she has obtained a physician’s clearance.

- (d) For the purposes of this subchapter, “under the supervision of a physician” means that respiratory care shall not be rendered unless a physician is constantly accessible, either on-site or through electronic communication, and available to render physical assistance when required.

13:44F-3.2 Practice by trainees

- (a) A trainee may perform those duties essential for completion of his or her clinical service, without having to obtain a license, provided the duties are performed under the direction of a physician, as defined in N.J.A.C. 13:44F- 3.1(b)1 and 2, and the supervision of a physician as defined in N.J.A.C. 13:44F-3.1(d), or under the direct supervision of a licensed respiratory care practitioner, as defined in N.J.A.C. 13:44F-5.1.
- (b) The trainee shall, when performing duties pursuant to (a) above, wear a badge which identifies the person as a trainee. Additionally, the supervising licensee or physician shall inform the patient that the person rendering care is a trainee.

13:44F-3.3 Delegation by a respiratory care practitioner to unlicensed persons

- (a) For the purposes of this section, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

“Assistant” means a respiratory assistant, respiratory aide, equipment technician or any other unlicensed person to whom a licensed respiratory care practitioner delegates tasks as set forth in (b) below.

“Inpatient setting” means residential care facilities, hospitals, sub-acute care facilities and skilled nursing care facilities.

“Outpatient setting” means assisted living facilities and home care.

- (b) Activities which a licensed respiratory care practitioner may delegate to individuals employed as assistants are limited to the following routine tasks which relate to the cleanliness and maintenance of equipment:

1. Disassembling equipment;
2. Cleaning equipment;
3. Preparing equipment for sterilization;

4. Maintaining oxygen cylinder and other specialty gas cylinders; and
 5. Making oxygen checks and charges.
 - i. An assistant who has received a level of training to ensure that the assistant can satisfactorily complete activities set forth in (b) above may set up, test, exchange and demonstrate equipment relating to oxygen delivery systems, except that a licensed respiratory care practitioner shall not permit an assistant to set up, test, exchange or demonstrate the equipment when oxygen is to be used on any life support system. This includes mechanical ventilation, either positive or negative pressure, with or without artificial airways, in use continuously or intermittently.
 - ii. In performance of the tasks enumerated in (b)5i above, the assistant is limited to basic oxygen delivery devices and shall not perform these duties in conjunction with any other respiratory therapy equipment.
- (c) A licensed respiratory care practitioner shall ensure that an assistant who performs the activities set forth in (b) above shall first receive a level of training to ensure that the assistant can satisfactorily complete the outlined activities.
1. The licensed respiratory care practitioner shall ensure that training records are completed and kept in the employee's file. The training records shall include the following:
 - i. The dates upon which each training session occurred;
 - ii. The length of each training session;
 - iii. The topics addressed during each training session; and
 - iv. Whether the employee demonstrated satisfactory skill in each task.
- (d) A licensed respiratory care practitioner shall not authorize or permit an unlicensed person to engage in direct patient care.
- (e) A licensed respiratory care practitioner shall be responsible for any activities which an assistant performs pursuant to (b) above.
- (f) The licensed respiratory care practitioner who delegates tasks as set forth in (b) above in an inpatient setting shall, prior to patient use, conduct an in-person assessment of the equipment and its ap-

plication to the patient to ensure that the assistant has performed the delegated setup tasks such that the equipment and other devices are safe for patient care.

(g) The licensed respiratory care practitioner who delegates tasks set forth in (b) above in an outpatient setting shall ensure that a follow-up visit from a licensee or a person exempt from licensure takes place within 24 hours of the delivery of the equipment to the patient for the purpose of conducting an in-person assessment of the equipment.

1. The follow-up visit shall be documented in writing.
 - i. The documentation shall be maintained for all patients during the course of respiratory care, and for a period of one year following the termination of respiratory care services.
 - ii. The documentation shall be available for the Board's inspection on the business premises of the licensee or person exempt from licensure who conducts the follow-up visit within 12 hours of the Board's request.

SUBCHAPTER 4. APPLICANT QUALIFICATIONS; BOARD-APPROVED EXAMINATION

13:44F-4.1 Eligibility for licensure

- (a) Applications for licensure may be obtained from the office of the Board of Respiratory Care.
- (b) An applicant shall submit, with the completed application form and the required fee, satisfactory proof that the applicant:
 1. Has a high school diploma or its equivalent as approved by the Board;
 2. Has successfully completed a training program accredited by the Joint Review Committee for Respiratory Care Education (JRCRCE) of the Council on Allied Health Education and Accreditation, or its successor; and
 3. Has passed the examination specified in N.J.A.C. 13:44F-4.2.

13:44F-4.2 Nature of examination; passing grade

- (a) The examination shall be the National Board for Respiratory Care Entry Level Examination or the substantial equivalent thereof.

1. Applications for examination should be obtained from the National Board for Respiratory Care.
2. Examinations shall be held within the State at least twice per year at a time and place to be determined by the Board. The Board shall give adequate written notice of the examination to applicants for licensure and examination.
3. The passing score required in order to be licensed shall be the same as the passing score identified by the National Board for Respiratory Care or, if a substantially equivalent examination is used, the passing score is identified by the body administering that examination.

13:44F-4.3 Refusal to issue, suspension or revocation of license

The Board may refuse to issue or may suspend or revoke any license issued by the Board, after an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for any of the reasons set forth in N.J.S.A. 45:1-21.

SUBCHAPTER 5. TEMPORARY LICENSURE

13:44F-5.1 Temporary license

- (a) Any person deemed eligible to sit for the licensure examination by virtue of completion of an accredited training program may apply for the issuance of a temporary license which is effective for no more than six months.
- (b) All temporary license holders under this section shall be required to work under the direct supervision of a physician or licensed respiratory care practitioner. For purposes of this section, "direct supervision" means continuous on-site presence of a supervising licensed respiratory care practitioner or supervising physician either of whom is constantly accessible through electronic communication and available to render immediate physical assistance as required.
- (c) The temporary license holder shall advise the Board, in writing, of the name and permanent license number of the licensee(s) under whose direct supervision the temporary licensee is or will be working. The temporary licensee shall keep the Board advised, in writing, of any subsequent change in supervising licensee(s).

(d) Except in the case of undue hardship, as determined by the Board, the holder of a temporary license shall be required to take the next scheduled examination. The temporary licensee shall submit a request to the National Board for Respiratory Care to inform the Board of the temporary licensee's test results. The temporary license shall automatically expire 45 days subsequent to the next examination following issuance of the candidate's temporary license, except that if the candidate fails the examination, the provisions of (d)2 and 3 below shall apply.

1. If a temporary licensee passes the examination and intends to practice respiratory care in the State of New Jersey, he or she shall immediately apply for permanent licensure in the State of New Jersey by submitting a completed application to the Board together with the appropriate initial license fee as set forth in N.J.A.C. 13:44F-8.1 no later than 10 days following the temporary licensee's receipt of test results.
2. If a temporary licensee fails the examination for the first time, the temporary license shall automatically expire upon notification to the temporary licensee of the test results by the National Board for Respiratory Care. The temporary licensee may reapply for the next examination, and if he or she intends to continue the practice of respiratory care, he or she shall, within 10 days of the issuance of test results:
 - i. Apply to the Board for a one-time temporary license renewal; and
 - ii. Forward to the Board the temporary license renewal fee as set forth in N.J.A.C. 13:44F-8.1.
3. If a temporary licensee fails the examination for the second time, the temporary license shall expire automatically upon notification to the temporary licensee of the test results by the National Board for Respiratory Care, and he or she shall surrender the license to the Board.

(e) Except in the case of undue hardship, as determined by the Board, if the temporary license holder fails to appear on the scheduled date of the second examination, the temporary license shall automatically expire.

13:44F-5.2 (Reserved)

Repealed by R.1997 d.260, effective June 16, 1997.

SUBCHAPTER 6. LICENSURE BY ENDORSEMENT

13:44F-6.1 Eligibility for licensure by endorsement

- (a) An applicant possessing a valid license issued by another state or possession of the United States or the District of Columbia shall be issued a license to practice respiratory care in New Jersey provided that:
 - 1. The requirements for licensure in that state or possession of the United States or the District of Columbia are substantially equivalent to the requirements of this chapter; and
 - 2. The applicant has not previously failed the Board-approved examination.
- (b) Nothing herein shall preclude the Board, in its discretion, from deeming an applicant who possesses a license issued by another jurisdiction but who has failed the examination to be eligible for licensure.

13:44F-6.2 Application requirements for licensure by endorsement

- (a) An applicant seeking licensure by endorsement shall submit the following to the Board:
 - 1. An application form together with the required fee;
 - 2. Proof satisfactory to the Board that the applicant is currently licensed in another state or possession of the United States or the District of Columbia and that the license is in good standing; and
 - 3. An affidavit that the applicant has not failed the Board-approved examination.

SUBCHAPTER 7. LICENSE RENEWALS

13:44F-7.1 Biennial license renewal

- (a) Prior to the expiration of the current biennial license period, the licensee shall submit an application for license renewal together with the biennial license renewal fee.
- (b) If the licensee fails to renew his or her license on or before the date specified in the license renewal notice, the license shall automatically expire.

13:44F-7.2 Reinstatement

- (a) If a license expires due to nonpayment of the biennial renewal fee, it may be reinstated within two years upon application to the Board and payment of the current and any past due biennial renewal fee together with the pertinent late fee or reinstatement fee as set forth in N.J.A.C. 13:44F-8.
- (b) The Board will not renew a license if the renewal application is submitted to the Board more than two years after the date of license expiration. In such event, the individual shall be required to apply for an initial license and to take the next scheduled examination.

SUBCHAPTER 8. GENERAL PROVISIONS

13:44F-8.1 Fees

- (a) State Board of Respiratory Care charges for licensure and other services as follows:
 - 1. Application fee \$125.00
 - 2. Initial license fee
 - i. During the first year of a biennial renewal period 160.00
 - ii. During the second year of a biennial renewal period ... 80.00
 - 3. License renewal fee, biennial 160.00
 - 4. Late renewal fee (within 30 days) 100.00
 - 5. Duplicate license fee 50.00
 - 6. Six-month temporary license 40.00
 - i. Temporary license renewal 40.00
 - 7. Temporary visiting license 80.00
 - i. Temporary visiting license renewal 80.00
 - 8. Reinstatement fee (after 60 days) 175.00
 - 9. Duplicate wall certificate 50.00
 - 10. Verification of licensure 25.00

13:44F-8.2 Patient records

- (a) Respiratory care practitioners shall prepare contemporaneous, permanent treatment records. Every patient record shall be kept for at least seven years from the date of the most recent entry, except that

if a patient is a minor, the records shall be kept for an additional two years beyond the age of 18. Such records shall include:

1. The dates and times of all treatments including adverse effects, if any;
 2. Findings of patient assessment;
 3. A patient care plan which includes treatment goals;
 4. The chief complaint and diagnosis;
 5. Progress notes;
 6. Written prescription for care or a care plan signed by a physician, or a verbal order or prescription memorialized by the prescriber in writing pursuant to the provisions of N.J.A.C. 13:44F-3.1(b)3. The licensee shall document verbal prescriptions in the patient record contemporaneously with administration of treatment;
 7. Results of appropriate tests;
 8. In an outpatient setting, a discharge summary which includes the outcome of respiratory care treatment and the status of the patient at the time of discharge; and
 9. The signature or initials of the licensee who rendered the care. If the licensee chooses to sign by means of initials, his or her complete signature must appear at least once in the records.
- (b) Respiratory care practitioners shall document any addenda or corrections to a patient's medical record in a separately dated, signed and timed note.
- (c) In addition to the requirements of (a) above, a licensee employed in a setting regulated by the Department of Health and Senior Services shall comply with all applicable Department of Health and Senior Services rules.
- (d) In an outpatient setting, access to patient treatment records by patients or duly authorized representatives shall be in accordance with the following:
1. Reports of all care and/or tests performed by respiratory care practitioners shall be provided no later than 30 days from the receipt of a written request from the patient or authorized representative. To the extent that the record is illegible or prepared in a language other than English, the licensee shall pro-

vide a typed transcription and/or translation at no cost to the patient.

2. Except where the complete record is required by applicable law, the licensee may elect to provide a summary of the record, as long as that summary adequately reflects the patient's history and treatment, where the written request comes from an insurance carrier or its agent with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement.
3. A licensee shall provide copies of records in a timely manner to a patient or another designated health care provider where the patient's continued care is contingent upon their receipt. The licensee shall not refuse to provide a patient record on the grounds that the patient owes an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.
4. The licensee may charge a reasonable fee for the reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the cost of copying or transcription.

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44F-9.1 Acts amounting to unlicensed practice

- (a) The following acts or practices shall be deemed to be the unlicensed practice of respiratory care:
 1. Offering or performance of any respiratory care services by any person other than a licensed respiratory care practitioner, an M.D., a D.O., or by any other health care provider not exempt from the provisions of this chapter pursuant to N.J.S.A. 45:14E-9(c);
 2. The use of the words respiratory care, respiratory therapy or other such similar words or their related abbreviations in connection with the offering of measures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from the licensure requirement;
 3. The use of the designation respiratory care practitioner, respiratory therapist, or other such similar terms and their related abbreviations in connection with the offering of mea-

asures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from licensure; or

4. Billing any patient or third party payor for “respiratory care” or “respiratory therapy,” in connection with the use of respiratory care agents, measures or services, if the individual providing the services does not hold a license to practice respiratory care, is not a licensed physician or is not otherwise exempt from the licensure requirement.

13:44F-9.2 Aiding and abetting unlicensed practice

It shall be unlawful for a licensee to aid or assist any person engaging in any of the practices identified at N.J.A.C. 13:44F-9.1.

New Jersey Administrative Code

Title 13, Chapter 45

Uniform Regulations

SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

13:45C-1.1 Definition of “licensee”

(a) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee or registrant of:

1. The Division of Consumer Affairs;
2. Any professional or occupational licensing board, or any committee, or other sub-agency thereof located within the Division;
3. The Division of Consumer Affairs, Office of Consumer Protection, Regulated, Business Section (Employment Agencies and Temporary Help Service Firms) pursuant to N.J.S.A. 34:8-24 et seq.; or
4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions. A licensee’s failure to cooperate, absent good cause or *bona fide* claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

(a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct

or other good cause or grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct.
2. The failure to timely provide records related to licensee conduct.
3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not require an adjournment of the proceeding.
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession.
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege.
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law.
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage counselor-client privilege, professional counselor-client privilege, associate counselor-client privilege and the social worker-client privilege shall be unavailable. Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information acquired which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 - 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
 - 2. The professional or occupational licensing board or the committee or other sub-agency of the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
 - 3. A Deputy Attorney General
- (b) Except as may be otherwise ordered as provided in this subchapter, access to the statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the board or other sub-agency of the Division having a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain.

- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.